

REMARKS/ARGUMENTS

Claims 88-91 are currently pending. Applicants have cancelled Claims 1-87. New Claims 88-91 have been added. Applicant submits that no new matter has been added by these amendments.

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected Claims 86 and 87 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicant has cancelled claims 86 and 87.

Applicant therefore submits that this rejection under 35 U.S.C. § 112, second paragraph, is moot.

Rejections Under 35 U.S.C. § 112, First Paragraph

The Examiner has rejected Claims 82-87 under 35 U.S.C. § 112, first paragraph, as lacking enablement necessary for the skilled artisan to practice the invention commensurate in scope with the pending claims. Applicant has cancelled claims 86 and 87. New Claims 88-91 do not recite the comparison of E-cadherin polynucleotide levels that have been correlated in lung cancer cells with sensitivity or resistance to an EGFR inhibitor.

Applicant therefore submits that this rejection under 35 U.S.C. § 112, first paragraph, is moot.

Claim Rejections Under 35 U.S.C. § 102

The Examiner has rejected Claims 82-87 under 35 U.S.C. § 102(b) as anticipated by Sulzer (Am J. Respir. Crit. Care Med., 157:1319-23, 1998).

Solely for the purposes of expediting prosecution, Applications have cancelled claims 82-87. Applicant submits that new claims 88-91 are not anticipated by Sulzer, and therefore respectfully request the Examiner's rejection under 35 U.S.C. § 102(b) be withdrawn.

Appl. No. 10/587,052
Amdt. dated January 28, 2011
Reply to Office Action mailed: January 26, 2010

Double Patenting

The Examiner has rejected Claims 82-87 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 2, 4, 6-10, and 12-15 of U.S. Patent Application Serial No. 11/781,946. Applicant has cancelled claims 82-87 and there are currently no allowed claims from either the instant application or co-pending Application No. 11/781,946.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,
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Date: January 28, 2011